

Proposed Zoning Amendments
For Royalston Zoning Task Force Consideration
Meeting Requirements of Task #5 of Smart Growth Grant

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Contents

I. Purpose.....	1
IV. Proposed Changes.....	2
Site Plan Review	2
Accessory Dwelling Units	8
Home Occupations.....	10
Flexible Developments.....	12
Use Chart Changes	16
Non-Conforming Uses and Structures.....	18
Open Space Residential Developments	22

I. Purpose

The purpose of this memorandum is to present “final” language of zoning revisions, based on prior public meetings with public input. Language is still subject to change based on future Planning Board public hearings.

Site Plan Review/Approval

To see if the Town will amend Section VI. B., Site Plan Review Special Permit, by deleting language indicated by ~~strikethroughs~~, and by adding language in ***bold italics***, as follows:

VI. B. Site Plan Review Special Permit

1. ~~Site plan review special permit by the Planning Board is required when a development on a single lot, or on contiguous lots under the same ownership, will result in 10 or more parking spaces or more than 5000 square feet of gross floor area, or as specified in Section IV.B Table of Use Regulations.~~

~~In such cases, a special permit may be issued only if the Planning Board makes a finding and determination that the following factors are adequately addressed in the project and that the development will not result in substantial detriment to the neighborhood:~~

- a. ~~The proposed placement of buildings,~~
- b. ~~Major topographic changes,~~
- c. ~~Surface and ground water drainage and erosion control,~~
- d. ~~Protection against flooding and inundation,~~
- e. ~~Prevention of water pollution and environment damage,~~
- f. ~~Provision for adequate utility services and waste disposal,~~
- g. ~~Provision for off-street parking,~~
- h. ~~Provision for off-street loading,~~
- i. ~~Location of intersections of driveways and streets, and~~
- j. ~~Traffic impacts~~

2. Filing Requirements

~~A person applying for a special permit under Section VI B shall file an application and a site plan, one copy of each, with the Town Clerk and six copies of each with the Planning board. Such application and site plan shall include the application requirements, as provided below, and shall also include information as to the nature and extent of the proposed use of the buildings.~~

- a. ~~Said site plan shall be prepared by a Massachusetts registered architect, landscape architect or civil engineer and shall show, among other things, zoning district boundaries, existing and proposed topography, all existing and proposed buildings and structures, their uses, elevations, parking areas, loading areas, driveways and driveway opening service area and all other open space areas, all facilities for sewage, refuse and other waste disposal and for surface water drainage, and all landscape features (such as walks, planting areas, trees and fences), lighting and signs.~~
- b. ~~An application that does not contain the material described in (a) above, shall be considered incomplete and shall not be accepted for processing. Upon receipt of material purporting to be an application, the Planning Board, or its designee, shall~~

determine whether the application is complete and notify the applicant in writing if the application is considered incomplete. If no such notification is made within 14 days, the application shall be considered to be complete as of the date submitted.

- c. ~~With a double residence, minimum lot size and frontage must be double the above table.~~

~~Upon written request from the applicant prior to the filing of an application, the Planning Board may waive the submission of such information, plans, studies or analyses, or parts thereof, as may not be needed for, or germane to, consideration of the application.~~

3. ~~Planning Board Procedures~~

~~Upon receipt of a completed application, the Planning Board shall promptly notify the Board of Health, the Conservation Commission, and such other boards, commissions or departments as it may consider appropriate, given the substance of the application, of the receipt of the application. The Planning Board shall not make a decision on such application until boards, commissions and departments have submitted reports or recommendations thereon or until 35 days have elapsed since the filing of a completed application without the receipt of reports.~~

4. ~~Public Hearing~~

~~The Planning Board shall hold a public hearing within 65 days after filing and, except as hereinafter provided, shall take final action on an application within 90 days after the hearing. Such final action shall consist of either:~~

- a. ~~A finding and determination that the proposed project will constitute a suitable development and will not result in substantial detriment to the neighborhood, or~~
- b. ~~A written denial of the application, stating the reasons for such denial and the elements or particular features of the proposal which are deemed by the Planning Board to be inadequate, unsuitable or detrimental to the neighborhood.~~

~~A finding and determination may be made subject to such reasonable conditions, modifications and restrictions set forth therein as the Planning Board may deem necessary to insure that the proposed project will constitute a suitable development and will not result in substantial detriment to the neighborhood. The Planning Board shall file with its records a written report of its final action on each application, with the reasons therefore.~~

5. ~~Conformity with Planning Board Conditions~~

~~In the event that the Planning Board approves a special permit under these provisions, said project shall be carried on only in conformity with any conditions, modifications and restrictions placed on the project by the Planning Board in the course of approving the special permit.~~

6. ~~Planning Board Failure to Take Action~~

~~In the event the Planning Board shall fail to take action on an application within the times set forth in Subsection IV.E.4, then upon the expiration of said times, the special permit application shall be deemed approved.~~

VI. B. Site Plan Review/Approval (SPA)

1. Applicability. *The following types of activities and uses require site plan review by the Planning Board:*

a. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or any multi-family structure;

b. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

c. As specified in Section IV.B. Table of Use Regulations.

2. Procedures. *Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Select Board, Board of Health, Board of Public Works, Building Inspector, Town Engineer, and Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.*

a. Application for Building Permit. *An application for a building permit to perform work as set forth in Section A available as of right shall be accompanied by an approved site plan.*

b. Application for Special Permit or Variance. *An application for a special permit or a variance to perform work as set forth in Section A shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section A shall contain the following condition: The work described herein requires the approval of a site plan by the Planning Board pursuant to Section VI.B.4 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.*

c. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the

conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

d. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

e. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

f. No deviation from an approved site plan shall be permitted without modification thereof.

3. Preparation of Plans. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.

4. Contents of Plan. The contents of the site plan are as follows:

a. Five (5) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the planning board. The plans are as follows: a. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the planning board. b. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage. c. Utility and landscaping plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas. d. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering. e. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

b. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

c. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in

residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this ordinance.

d. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Royalston subdivision regulations.

e. The Planning Board may require a narrative statement detailing the impact of the proposed use on municipal services and the environment.

f. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

g. Waiver of Technical Compliance. The Planning Board may, upon written request of the applicant, waive any of the requirements of this Section where the project involves relatively simple development plans or constitutes a minor site plan. An application for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or an application which will not generate the need for more than 10 parking spaces shall be deemed a "minor site plan." For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 5440; provided, however, that the scale of the site plan may be 1' = 80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

5. Approval. Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

a. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of storm water flow increase from the site, soil erosion, and threat of air and water pollution;

b. Maximize pedestrian and vehicular safety both on the site and egressing from it;

c. Minimize obstruction of scenic views from publicly accessible locations;

d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

e. Minimize glare from headlights and lighting intrusion;

f. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

g. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;

g. Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.

6. Lapse. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

7. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

8. Fee. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

9. Appeal. The appeal of any decision of the planning board hereunder shall be made in accordance with the provisions of Mass. Gen. L. ch. 40A, §17.

Accessory Dwelling Units

To see if the Town will amend Section IV. E., Accessory Uses, by adding a new subsection IV. E. 3, and new language in ***bold italics***, as follows:

IV. E. 3. Accessory Dwelling Units

- 1) Purpose. This section has been adopted to promote the following purposes:***
 - a) To provide small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town;***
 - b) To enable owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership;***
 - c) To provide additional living space for extended family members.***
- 2) Special Permit Required. Accessory dwelling units may be allowed by special permit by the Board of Appeals, which shall terminate either upon transfer of the ownership of the premises or when the owner no longer occupies the premises as his legal residence, and subject to the following considerations.***
- 3) Procedures. An application for a special permit shall be governed by the following procedures:***
 - a) Plot Plan. A plot plan, prepared by a Registered Land Surveyor, of the existing dwelling unit and proposed accessory dwelling unit shall be submitted to the Board of Appeals, showing the location of the building on the lot, proposed accessory dwelling unit, location of any septic system and required parking. A mortgage inspection survey, properly adapted, shall be sufficient to meet this requirement.***
 - b) Board of Health. Any special permit application shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). Therefore, applicants are encouraged to seek Board of Health review prior to making an application to the Board of Appeals. The Board of Health shall also approve water supply and drainage resulting from the proposed accessory dwelling unit as adequate for the proposed construction.***
 - c) Affidavit. Certification by affidavit shall be provided that one of the two dwelling units shall be occupied by the owner of the property at least six months in any calendar year.***
- 4) Standards. Accessory dwelling units shall be subject to the following standards:***
 - a) Limit. Not more than one accessory dwelling unit may be established on a lot. The accessory dwelling unit shall not exceed 33% of the gross living space of the existing or expanded principal structure or 800 square feet, whichever is greater.***

- b) Location. The accessory dwelling unit may be located in the principal structure or in a detached accessory structure; provided, however, that an accessory dwelling unit may be located in such detached accessory structure only where such detached accessory structure has been in existence for at least ten (10) years.*
- c) Appearance. The external appearance of the structure in which the accessory dwelling unit is to be located shall not be significantly altered from the appearance of a single family structure, in accordance with the following:*
 - i) Any accessory dwelling unit construction shall not create more than a 15% increase in the gross floor space of the structure;*
 - ii) Any stairways or access and egress alterations serving the accessory dwelling unit shall be enclosed, screened, or located so that visibility from public ways is minimized;*
 - iii) Sufficient and appropriate space for at least one (1) additional parking space shall be provided by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway; and*
 - iv) All construction and/or renovation shall be performed in accordance with the applicable requirements of the State Building Code.*
- 5) Conditions for Issuance and Renewal of Special Permits. The initial term and subsequent terms of a special permit for an accessory dwelling unit shall terminate upon transfer of the ownership of the premises or when the owner no longer occupies the premises as his or her legal residence. Subsequent special permit issuances for existing accessory dwelling units may be granted after certification by affidavit is made by the applicant to the Board of Appeals that the accessory dwelling unit has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application.*
- 6) Decision. Special permits for an accessory dwelling unit may be issued by the Board of Appeals upon a finding that the construction and occupancy of the dwelling unit complies with foregoing provisions and will not be detrimental to the neighborhood in which the lot is located and after consideration of the criteria specified.*

Home Occupations

To see if the Town will amend Section II. Home Occupation, by deleting language indicated by ~~strikethroughs~~, and by adding language in ***bold italics***, as follows:

II. Definitions

~~The occupation shall not employ more than one (1) non-resident employee, and shall not be characterized by outward manifestations that are unlike those of dwelling units in the particular neighborhood in which the dwelling is located (i.e. traffic generation, noise, public service and utility demand, etc. The home occupation shall occupy not more than forty (40) percent of the gross floor area or six hundred (600) square feet, whichever is less, of the dwelling unit. In connection with a home occupation, there shall be no display visible from outside the building other than an identification sign not larger than two (2) square feet in area.~~

An occupation, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof.

To see if the Town will amend Section IV. E., Accessory Uses, by adding a new subsection IV. E. 4, and new language in ***bold italics***, as follows:

4. HOME OCCUPATIONS

a. Home Occupations As of Right. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling; provided, however, that all of the following conditions shall be satisfied:

- 1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto which has been in existence at least five (5) years, without extension thereof.***
- 2. Not more than thirty (30) percent of the combined floor area of the residence and any qualified accessory structures shall be used in the home occupation.***
- 3. No person not a member of the household shall be employed on the premises in the home occupation.***
- 4. The home occupation shall not serve clients, customers, pupils, salespersons, or the like on the premises.***
- 5. There shall be no sign, exterior display, no exterior storage of materials, and no other exterior indication of the home occupation, or other variation from the residential character of the premises.***

6. *No disturbance, as defined in Section XXX, shall be caused, nor shall the home occupation use or store hazardous materials in quantities greater than associated with normal household use.*
7. *Traffic generated shall not exceed volumes normally expected in a residential neighborhood.*

b. Home Occupations by Special Permit. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling upon the issuance of a special permit by the Board of Selectmen; provided, however, that all of the following conditions shall be satisfied:

1. *All of the requirements of Section a.1, a.2, and a.7.*
2. *Not more than one (1) person not a member of the household shall be employed on the premises in the home occupation.*
3. *An unlighted sign of not more than three (3) square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.*
4. *Parking generated by the home occupation shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 35% of lot area.*
5. *No disturbance shall be caused. The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.*

Flexible Developments

To see if the Town will amend Section VII. B. Flexible Development For Small Projects, by deleting language indicated by ~~strikethroughs~~, and by adding language in ***bold italics***, as follows:

B. Flexible Development for Small Projects

1. Purpose

~~Flexible development is an optional development device, not requiring a special permit or site plan approval, designed to encourage efficient use of Royalston's topography, preserve open space and maintain the overall density allowed through the Town's zoning.~~

2. Method

~~Any parcel in the RAA District may be divided into not more than three (3) lots, whether a subdivision or not, and built upon under the following alternative area and frontage requirements.~~

- ~~a. The average frontage for all building lots created shall be no smaller than the minimum required under Section V, Intensity Regulations, but individual lots may have frontage of as little as 2/3 of that requirement.~~
- ~~b. The zoning district of the property from which the new lots are created shall be the standard for the number of buildable lots allowable, and the number of building lots created shall be no more than would have been allowed according to Section V, Intensity Regulations~~
- ~~c. Individual lot area per unit may be as little as 1/2 that required in Section V, Intensity Regulations.~~
- ~~d. Opting to develop under this method does not remove the developer's obligation to conform to all other rules and laws pertaining to construction or subdivision.~~
- ~~e. The plan creating the lots shall be endorsed by the Planning Board as 'Approved for Flexible Development'.~~
- ~~f. No further increase in the number of lots shall be allowed through subsequent land division.~~

B. Flexible Developments

1. Applicability. An owner or owners of land in a RRA District may apply to the Planning Board for a Special Permit for Flexible Development under this Section VII.B.

This will exempt such land from the lot area, frontage, setback and other applicable dimensional requirements set forth in Section V, Intensity Regulations, of this Zoning By-Law in order to fulfill the purposes of Flexible Development. The Planning Board shall be the Special Permit Granting Authority for any Special Permit for Flexible Development issued under this Section. Nothing in this section shall be interpreted as

conflicting with the right of a landowner to proceed under the Subdivision Control Law with an application for a preliminary or definitive subdivision plan pursuant to G.L.c.41, Sections 81S and 81T, or with an application for endorsement of a plan of land division as "approval not required" pursuant to G.L.c.41, Section 81P.

2. Purpose

The general purpose of Flexible Development is to allow greater flexibility and creativity in the design and layout of single family residential development, without any increase in permitted density, in order to:

- a. minimize alteration of or damage to the natural and cultural features and topography of the land;*
- b. avoid undue adverse impacts of new development on existing homes and neighborhoods;*
- c. preserve wooded areas and other undeveloped open land particularly along Town roads;*
- d. preserve the existing semi-rural appearance of the Town.*

3. Fees

An applicant for a Special Permit for Flexible Development shall pay a filing fee and review fees as the Planning Board shall deem reasonably necessary, which fees shall be set forth in the Planning Board Special Permit Rules for Flexible Development.

4. Procedure

A landowner seeking to create a Flexible Development of land may file with the Planning Board an Application for a Special Permit for Flexible Development. The Application shall conform to the applicable requirements for a Definitive Subdivision Plan as set forth in the Planning Board's Rules and Regulations for the Subdivision of Land, as well as the Flexible Development requirements contained herein and all other requirements in the Special Permit Rules for Flexible Development.

The Planning Board shall give notice, hold a public hearing and file its decision regarding a Flexible Development Application, in accordance with the procedures governing special permits contained in Sections 9, 11 and 15 of M.G.L.c.40A, the Zoning Act.

5. Dimensional Requirements.

A Special Permit for Flexible Development may authorize the creation and use of lots meeting the following dimensional requirements in lieu of the conventional dimensional requirements contained in Section V.

- a. **Lot Area.** Each lot shall be at least of a size capable of supporting the construction of a single-family dwelling and its accessory structures in accordance with all applicable state and local regulatory requirements and the purposes of Flexible Development.
- b. **Frontage.** The frontage of each lot for a building site created in a Flexible Development shall be that necessary, in the opinion of the Planning Board, to provide for adequate access to the lot. Where shared driveways or other circumstances provided adequate access to an individual lot, frontage may not be required.
- c. **Setbacks.** All structures shall be set back a minimum of twenty (20) feet from all lot lines, provided, however, that with respect to lot lines which abut an existing street or which otherwise abut land outside the Flexible Development, setbacks from said lot lines shall conform to the Section V setback requirements applicable to conventional development in the underlying zoning district.
- d. **Building Height.** The height of all buildings or other structures within a Flexible Development shall conform to the requirements established elsewhere in this Bylaw.

6. Other Requirements

- a. **Buildable Lot.** Buildable lot shall be defined for purposes of determining the density of a Flexible Development as an area of contiguous land, having sufficient area and dimensions to meet the applicable requirements of this Zoning By-Law for use as the site of one single family detached dwelling, and conforming to all relevant state and local laws and regulations.
- b. **Developed Areas.** The boundaries of the area(s) within each lot that will contain all principal and accessory structures shall be shown on the plan and designated as the "Developed Areas". The areas so designated shall be of a size and location to satisfy the stated purposes and standards set forth herein.
- c. **Single Dwelling.** Not more than one single family dwelling and its accessory structures and uses may be located on a lot created under Flexible Development pursuant to Section VII.B.6.b.
- d. **Density.** The maximum number of lots for building sites in a Flexible Development shall not exceed the number of buildable lots which could be created through conventional development of the site. The allowable maximum density shall be based upon the maximum number of buildable lots which may be created through conventional development of the land without substantial waivers from the Planning Board's Rules and Regulations for the Subdivision of Land and in conformance with the conventional dimensional requirements for the underlying zoning district. The Planning Board shall make the final determination of density, provided, however, that for the limited purpose of showing conformance with said conventional dimensional requirements in accordance with Section V.
- e. **Restrictions Against Further Development.** No Flexible Development for which a Special Permit has been issued under this Section may be further subdivided.

A notation to that effect shall be made on the Lot Plan as defined in the Planning Board Rules and Regulations to be endorsed by the Planning Board and recorded in the Registry of Deeds or the Land Court. In addition, a perpetual restriction, running with the land, and enforceable by the Town of Royalston, shall be recorded with respect to the land within the Flexible Development. Such restriction shall provide that no lot in the Flexible Development may be further subdivided into additional building lots. Said restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the lots as the Planning Board may deem appropriate.

7. Allowed Uses.

The land in a Flexible Development may be used for any use otherwise allowable in the RRA District in which it is located, pursuant to the provisions of Section IV Use Regulations.

8. Standards

In reviewing an Application for a Special Permit for Flexible Development, the Planning Board shall consider the extent to which the Application meets the purposes of Flexible Development by satisfying the following standards:

- a. The laying out of Developed Areas, roads, storm drains, sewage disposal systems, and utilities shall be in conformance with the natural features of the parcel, minimizing changes to the topography and maximizing the amount of preserved wooded areas and other open space.*
- b. The amount of land to be disturbed for the construction of buildings, driveways, septic systems, utilities, storm drainage systems and roads shall be minimized.*
- c. Important natural and historic features of the land, as determined by the Planning Board, shall be protected.*
- d. The Flexible Development shall be in keeping with and enhance the overall rural appearance of Royalston by:
 - i. preserving views from existing roads;*
 - ii. avoiding undue adverse impacts on neighborhoods;*
 - iii. conserving natural and historic resources, including but not limited to those linked to off-site protected resource areas.**
- e. The impacts of road and utility installations for each dwelling unit served shall be less than those generated by a conventional development of the same land.*
- f. The design, number and location of curb cuts shall be such that any conflict with existing traffic flow is minimized, and the semi-rural appearance of existing streets is maintained or enhanced.*
- g. Provision, satisfactory to the Planning Board, shall be made with regard to the ownership and maintenance of any and all private roads, common driveways, common land, or other common facilities within the Flexible Development.*
- h. The design shall minimize the size of Developed Areas.*

The Planning Board shall not grant a Special Permit for Flexible Development unless the Application is consistent with the above standards and conforms to the dimensional and use requirements for Flexible Development set forth herein and in the Planning Board Special Permit Rules for Flexible Development.

To see if the Town will amend Section IV. B., Table of Use Regulations, by deleting language indicated by ~~strike throughs~~, and by adding language in ***bold italics***, as follows:

B. Table of Use Regulations

Y = Yes, Allowed By Right SPA = Site Plan Approval Required
 N = No, Prohibited PBS = Permit from Board of Selectmen
 SPBA = Special Permit from ZBA
 SPPB = Special Permit from Planning Board

Principle Use	R	HR	RRA
Restaurants	N <i>SPBA</i>	N	N
Auto Service/Repair Station	N <i>SPBA</i>	N	N
Retail, Office or Service less than 1500 sft.	N <i>SPBA</i>	N	N
Bed and Breakfasts	SPA <i>SPBA</i>	N <i>SPBA</i>	<i>SPA</i>
Warehousing	N <i>SPBA</i>	N	N
<i>Mixed Use Buildings</i>	<i>SPBA</i>	<i>N</i>	<i>N</i>

To see if the Town will amend Section IV. D., Non-Conforming Uses, by deleting language indicated by ~~strike throughs~~, and by adding language in ***bold italics***, as follows:

~~IV.D. Non-conforming Uses~~

- ~~1. The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this bylaw may be continued although such structure or use does not conform with provisions of the bylaw.~~
- ~~2. Alteration. Internal alteration or reconstruction of a non-conforming structure may be allowed only through a Special Permit from the Board of Appeals.~~
- ~~3. Extension. An increase in the extent in the non-conforming use of a structure or land may be made only with a Special Permit from the Board of Appeals.~~
- ~~4. Abandonment. A non-conforming use which has been abandoned for two years or more shall not be re-established and any future use shall conform with this bylaw.~~
- ~~5. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.~~

IV.D. Nonconforming Uses and Structures

1. Applicability. This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

2. Nonconforming Uses. The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

- a. Change or substantial extension of the use;***
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.***

3. Nonconforming Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- a. Reconstructed, extended or structurally changed;***

- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;*
- c. Reconstructed after a catastrophe, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within eighteen (18) months after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure.*
- d. The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.*

4. Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5. Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.

6. Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert back to a nonconforming use.

Large Development Review

To see if the Town will amend Section VII. C., Non-Conforming Uses, by deleting the entire Section VII.C. Large Development Review:

~~VII. C. Large Development Review~~

~~1. Review Required~~

~~a. A site plan approval special permit and impact analysis by the Planning Board is required whenever any development, whether a subdivision or not, results in the creation of four (4) or more lots (unless restricted from residential use), or construction of four (4) or more dwelling units within a two-year period from or on a property or set of contiguous properties in common ownership as of May 8, 1987, or when a development on a single lot or contiguous lots under common ownership will create 10,000 square feet or more of enclosed floor area. The review is designed to prepare the Town for the physical and financial impact of a large development and to allow it to recommend modifications calculated to reduce that impact.~~

~~2. Site Plans and Impact Statements~~

~~a. A detailed site plan of the subdivision or development shall be prepared as follows:~~

~~The site plan shall be prepared by a Massachusetts registered architect, landscape architect, or civil engineer and shall show, among other things, zoning district boundaries, existing and proposed topography, all existing and proposed lot lines, all existing and proposed structures, their uses, elevations, parking areas, loading areas, driveways and driveway opening service area and all other open space areas, all facilities for sewage, refuse and other waste disposal and for surface water drainage, and all landscape features (such as walks, planting areas, trees and fences), lighting and signs.~~

~~In cases where the proposed project is a subdivision, the above requirements may qualify for the Preliminary Plan requirements, with the approval of the Planning Board.~~

~~b. The site plan must be accompanied by an impact statement which details the probable effects of the subdivision or development on the following aspects of concern to the Town:~~

- ~~1. attendance at public schools;~~
- ~~2. increases in vehicular traffic;~~
- ~~3. changes in the number of legal residence;~~
- ~~4. provision of housing for Town residents and for low and moderate income;~~
- ~~5. increases in municipal services;~~
- ~~6. load on public utilities or future demand for them;~~
- ~~7. public safety;~~
- ~~8. changes in tax revenue;~~
- ~~9. changes in surface drainage;~~
- ~~10. increased consumption of groundwater;~~
- ~~11. increased refuse disposal;~~
- ~~12. pollution of water and air;~~
- ~~13. land erosion or loss of tree cover;~~
- ~~14. disturbance of other aspects of the natural ecology;~~
- ~~15. blocking of views;~~
- ~~16. harmony with the character of surrounding development.~~

~~3. Review Process~~

a. The Planning Board will review both the site plan and the impact statement, giving weight to the factors outlined above as they affect the future of the Town and of the neighborhood adjacent to the site. It may ask for further information where necessary to review the application adequately, and may make recommendations for modifications to the development as it thinks proper to protect the Town. The requirements of Section VI-B, Site Plan Special permit Requirements, shall be followed for this process.

b. ~~Review of Other Boards~~ — Before acting upon the application, the board shall submit it with the plan to the following boards which may review it jointly or separately: the Board of Health, the Conservation Commission, and the Fire Department. Any such board or agency to which petitions are referred for review shall submit such recommendations, as it deems appropriate to the Planning Board and the applicant. Failure to make recommendations within 35 days of receipt shall be deemed lack of opposition.

c. ~~Public Hearing~~ — After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of G.L. Chapter 40A, Section 11. The decision of the board, and any extension, modification or renewal thereof, shall be filed with the board and clerk within 90 days following the closing of the public hearing. Failure of the board to act within 90 days shall be deemed a grant of the permit applied for. Issuance of the permit requires a two-thirds vote of all members of boards of over five members, four members of a five-member board, and unanimous vote of a three-member board.

4. ~~Development Timing~~

~~As a condition of its approval, the Planning Board may require a development schedule limiting the rate of development for the premises, taking into consideration the intent of avoiding large year-to-year variations in Town-wide development rate while allowing development consistent with the historic average rates, and also taking into consideration the ability of the Town to timefully provide needed services to the site. In no event shall a development be limited to fewer than three (3) lots or dwelling units per year, or be obliged to spread development out over more than eight years.~~

5. ~~Decision~~

~~The Planning Board shall approve, or approve with conditions, a Large Development Review Special Permit provided that the Board determines that the plan is on balance beneficial to the Town based upon the considerations established under the site plan and impact reviews described above, Section VI-A, Special Permit Requirements and, where relevant, Section VII-~~

Open Space Residential Developments

To see if the Town will amend Section VII. C., Open Space Residential Developments, by deleting language indicated by ~~strikethroughs~~, and by adding language in ***bold italics***, as follows:

VII. C. Open Space Residential Development

1. Purpose

The purpose of Open Space Residential Development is to provide an optional development method for residential projects of four (4) or more lots and to encourage the preservation of common land for conservation, agriculture, open space and recreational use; to preserve historical or archaeological resources; to protect existing or potential municipal water supplies; to protect the value of real property; to promote better utilization of land in harmony with its natural features and with the general intent of the zoning bylaw through a greater flexibility in design; and to allow more efficient provision of municipal services.

2. Procedures

a. Filing of Application – each proposal for an Open Space Residential Development shall begin with a ~~Large Development Review, Section VI-C~~ ***Site Plan Review/Approval, Section VI-B.***

b. Contents of Application- In addition to the requirements of the ~~Large Development Review~~ ***Site Plan Review/Approval*** site plan and impact reviews, the application shall also include the following information:

1). The number of dwellings which could be constructed under this bylaw by means of a conventional development plan, considering the whole tract, exclusive of water bodies and/or land within the Wetland District, Edge District, Floodplain District or land prohibited from development by legally enforceable restrictions, easements or covenants. [Note: Such areas are not to be counted in figuring the number of permissible units. The applicant shall be required to exclude those areas in making these calculations.]

2). Evaluation of the open land proposed within the Open Space Residential Development, with respect to size, shape, location, natural resource value, and accessibility by residents of the town or of the Open Space Residential Development.

c. Relation to Subdivision Control Act – Planning Board approval of a ~~special~~ permit hereunder shall not substitute for compliance with the subdivision control act nor oblige the planning board to approve any related definitive plan for subdivision, nor reduce any time periods for board consideration under that law.

3. Criteria for Board's Decision

The Board may grant a ~~Large Development Review special~~ permit for an OSR proposal ~~only if it finds that the applicant has demonstrated the following~~ ***after the applicant has demonstrated that the plan attempts to consider the following factors to the extent practicable:*** that the Open Space Residential Development plan will be in harmony with the general purpose of the bylaw and the requirements of G.L. Chapter 40A, and the long range plan of the town; that it will not have a detrimental impact on the neighborhood, will be designated with due consideration for health and safety, and is superior to a conventional plan in preserving open space, minimizing environmental disruption, allowing for more efficient provision of services, or allowing for greater variety in prices or types of housing.

4. Minimum Dimensional Requirements

The following dimensional requirements shall govern an Open Space Residential Development:

- a. The area of the tract to be developed is not less than ~~ten (10)~~ **five (5)** acres.
- b. Every single-family detached dwelling placed upon a lot shall have the height, frontage, side and rear yard requirements of Table 1, Dimensional Requirements-Open Space Residential Development.
- c. Minimum width of open land between any group of lots and adjacent property lines is 50 feet and between each group of clustered buildings is 100 feet.
- d. Except as specified on a special permit granted under this section, all requirements of the zoning bylaw shall continue to apply.
- e. The number of units shall not exceed ~~80%~~ **100%** of the number allowable in the district in a normal subdivision.

TABLE OF DIMENSIONAL REGULATIONS – OPEN SPACE RESIDENTIAL DEVELOPMENT

District	OSRD Min. Del. Area per structure	Dev. Area Frontage (feet)	OSRD Min. Side and rear between	OSRD Setbacks from	Bldg. Height (ft.)	Buffers w/abutting properties
Unsewered lots, Single family, detached	1 acre	100	15	75	25	75
Unsewered Two Family Detached	2 acres	125	15	75	25	75

Note: 1 OSR Minimum Lot Area. This is an area designated to one detached dwelling unit. It includes land and buildings.

5. Required Open Land

- a. At least 40% of the buildable land, exclusive of land set aside for roads and parking, shall be open land.
- b. The open land, and such other facilities as may be held in common shall be conveyed to one of the following, as determined by the planning board, subject to the following guidelines. In general, valuable natural resource land such as wetlands not suitable for any public use, or suitable for extensive public recreational use, should be conveyed to the town or to a trust; whereas land that will be principally used by the residents of the Open Space Residential Development should be conveyed to a homes association.

1. To a corporation or trust comprising a home association whose membership includes the owners of all lots or units contained in the tract. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the Town of Royalston over such land pursuant to M.G.L. Chapter 184, Section 31-33 to insure that such land be kept in an open or natural state as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by Section 33 of Chapter 184 of M.G.L. In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held on common until such time as the homes association is capable of assuming said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Worcester County Registry of Deeds a Declaration of Covenants and Restrictions, which shall, at a minimum, provide for the following:

- a. Mandatory membership in an established homes association as a requirement of ownership of any lot in the tract.
 - b. Provisions for maintenance assessments of all lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the homes association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homes association or the owner of any lot.
 - c. Provision which, so far as possible under the existing law, will ensure that the restrictions placed on the use will not terminate by operation of law.
2. To the Conservation Commission of the Town for a park or open space use, subject to the approval of the selectman, with a trust clause insuring that it be maintained as open space.
3. Subject to the above, the open space may be used for recreational purposes including golf courses, riding trails, tennis courts, gardens, swimming pools and temporary structures. The board may permit open land owned by a homes association to be used for individual septic systems, or for communal septic systems if it, and the board of health, are convinced that proper legal safeguards exist for proper management of a communally owned system.
6. Further Requirements
 - a. No use other than residential or recreational shall be permitted.
 - b. No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a notation to this effect shall be shown upon the plan.
 - c. No certificate of occupancy shall be issued by the building inspector until he has certified to the planning board that the premises have been built in accordance with the plan approved by the board hereunder.
 - d. The board may grant a special permit hereunder for Open Space Residential Development even if the proposed development is not subject to the subdivision control law.
 - f. Subsequent to granting of the permit, the Planning Board may permit relocation of lot lines within the Open Space Residential Development. However, any change in overall density, street layout, or open space layout will require further hearings.
 - g. All roads within the development shall remain under private management for perpetuity, unless there is express acceptance by the Town to accept the ways as a public ways.
 - h. All developments must provide individual water and septic system to each dwelling.